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Attention: Mr. Greg Mills
United States Patent and Trademark Office
Washington, DC 22202

Re: Reissue Application Serial No. 10/057,671
Bellehumeur et al.

Dear Sir:

Per your request to my client Mr. Carl Lekavich, I am sending you certain attachments relating to the above-identified reissue application.

We are requesting to hold up the "reissue" of Reissue Application Serial No. 10/057,671 that is indicated in the United States Patent and Trademark Office website to be ready for reissue. (See Attachment A).

The Federal Circuit just dismissed on February 11, 2003 the case of Alex Bellehumeur v. Carl Lekavich (See Attachment B) in which the United States District Court for the Central District of California, Western Division declared the original U.S. Patent 5,597,161 invalid due to lack of common ownership at the time of the signing of the Terminal Disclaimer.

We further believe the original U.S. Patent 5,597,161 is not yet commonly owned with U.S. Patent 5,275,410 when the assignment (See Attachment C) on its face clearly shows only one issued patent was assigned. The provision of the MPEP do not provide for an existing C-I-P or continuation patent application to be assumed also to be assigned in this factual scenario. The

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statement by Mr. Bellehumeur's attorney that the earlier effective date of assignment should not be used as a rationale to weaken the provisions of the MPEP to when the assignment was actually signed.

We also filed a public protest in the present reissue with several detailed arguments directed to the lack of common ownership, the defective terminal disclaimer and the fact that a defective terminal disclaimer is not the proper subject matter under 35 U.S.C. §251. The Examiner only made a cursory conclusory remark to address the entire public protest (See attachment D).

In the lower court proceeding, the inventor, Alex Bellehumeur never requested a stay of proceeding to file a reissue but decided to pursue his court proceedings until the final judgment of invalidity (See attachment E).

It violates all administrative and legal principals to now let the reissue application be reissued and allow the inventor, after he exhausted his rights in court, to now revive his rights through another Federal Agency. We feel the exhaustion of Mr. Bellehumeur's remedies in a court of law through the lower court and dismissal by the Federal Circuit should be final.

We wish you reconsider this reissue.

Very truly yours,

REISING, ETHINGTON, BARNES, KISSELLE,
LEARMAN & MCCULLOCH, P.C.



Steven L. Permut

SLP/dl
Attachments

cc: Carl Lekavich (w/out Attachments)

2003/03/03 14:56:00